

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36019]

OmniTRAX Holdings Combined, Inc.—Continuance in Control Exemption—Central Texas & Colorado River Railway, LLC

OmniTRAX Holdings Combined, Inc. (OmniTRAX) has filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of Central Texas & Colorado River Railway, LLC (CTCR), a noncarrier, upon CTCR's becoming a Class III rail carrier. CTCR is a wholly owned subsidiary of OmniTRAX.

This transaction is related to a concurrently filed verified notice of exemption in Central Texas & Colorado River Railway—Acquisition & Operation Exemption—Line of Heart of Texas Railroad, Docket No. FD 36018, in which CTCR seeks Board approval under 49 C.F.R. § 1150.31 to acquire and operate a line of railroad extending 67.5 miles from Lometa, Tex., to the end of the track at Brady, Tex. (the Brady Line).

OmniTRAX is a noncarrier holding company that controls 18 Class III rail carrier subsidiaries (the OmniTRAX Railroads) subject to the Board's jurisdiction.¹ This

¹ In its verified notice, OmniTRAX explains that in preparing the two related class exemption filings, it was discovered that OmniTRAX had acquired direct and exclusive control of the 18 OmniTRAX Railroads on December 31, 2015. It states that it inadvertently did not seek advanced authority to engage in the acquisition of control, "in part because of the preexisting close association among all of the involved carriers and their largely common short line heritage." On May 5, 2016, OmniTRAX filed a petition for exemption in Docket No. FD 36032 to seek the requisite authority to acquire control of the OmniTRAX Railroads, and by decision served on May 26, 2016, the Board held the notice of exemption proceedings in abeyance pending a ruling on the petition. The
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transaction will permit it to exercise common control of these entities and CTCR once CTCR acquires the Brady Line.

The exemption will become effective July 28, 2016.

OmniTRAX represents that: (1) the rail line to be acquired and operated by CTCR does not connect with the lines of any of the OmniTRAX Railroads; (2) the continuance in control transaction is not part of a series of anticipated transactions that would result in such a connection; and (3) the proposed transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 1180.2(d)(2).

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the

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Board granted the petition in a decision served July 14, 2016, and therefore is removing this proceeding from abeyance and publishing this notice.

effectiveness of the exemption. Petitions for stay must be filed no later than July 21, 2016 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36019, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on William C. Sippel, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

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Decided: July 11, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.